



## Housing Policy and Practices Advisory Group

### Summary of Meeting

June 25, 2015  
10:00 am – 3:00 pm

#### **Attendance**

SCAG –Huasha Liu  
ABAG – Dwayne Bay  
APA – John Terell  
Local Government Representative – Leighann Moffitt (Sacramento County)  
Local Government Representative – Julia Bidwell (Orange County)  
Public Interest Law Project – Mike Rawson  
California Rural Legal Assistance – Ilene Jacobs  
Housing California – Tyrone Buckley  
Western Center for Law and Poverty – Stephane Haffner  
HCD – Lisa Bates, Deputy Director, Housing Policy  
Glen Campora, Assistant Deputy, Housing Policy  
Melinda Coy, Specialist  
Autumn Bernstein, Facilitator

#### **Public Attendance**

Dillon Dobson – UNHDC  
Mike Pallesen – RCHDC  
Peter Imhof - SBCAG

#### **Agenda Items**

##### **Charter Revisit**

HCD presented the revised charter for adoption. The group accepted the charter with the addition of including a report/action plan to be created at the end of the process in the outcomes section. The final report will be available to HCD, BCSH, legislative staff, and stakeholders.

##### ***Public Comment:***

- All segments of population need to be included in this discussion including tribal groups.
- MPOs do not seem well-represented: should increase outreach of meetings
  - MPOs and smaller COGs should get more involved with related issues to gain broader input

## Issue Priorities

HCD presented two documents to the advisory group. The first document was a list of the topics and issues related to the RHNA and housing element by complexity. This list included the issues that the group suggested at the May 12 meeting. The second document was a tentative list of when topics would be discussed at future advisory group meetings.

### *Comments:*

- CEQA is huge government constraint and should be added to broader policy issues
  - While this discussion is happening in localities all over state, the advisory group can help inform these outside discussions on CEQA
- SB 244 (statutes of 2011) which requires an analysis of the needs of unincorporated island, fringe, or legacy communities inside or near its boundaries should be added to the list. Specifically the issue should address how SB 244 relates to the review of the housing element and whether staff should be monitoring if the analysis has been completed.

*The group was asked to brainstorm ways in which high complexity and broader issues should be addressed as part of the process. HCD will consider the following suggestions and make a recommendation.*

- Subgroups with staff support of time. Subgroups would include broader representation.
- Go through the advisory group process to determine which issues need to be focused on. Determine if more meetings are necessary.
- Develop a forum process for brainstorming issues, either online, or as an workshop.

## Regional Housing Need Allocation (RHNA) Primer

HCD presented a primer on the RHNA process. Copies of the presentation are available upon request.

### *Comments:*

- Many local governments incorrectly perceive RHNA as a housing production quota, but rather it requires local governments to “plan” for all of their projected future housing unit need target.
- DOF future new household population and unit projections primarily based on unconstrained demographic data (births/deaths/migration) among age/gender/race groups whereas COG’s data includes economic, fiscal, and other constraints (not necessarily or primarily based on age/gender/race groups).
- COG RHNA methodology and distribution plans can vary and be controversial based on member local government differences (jurisdiction size, residential land availability, median income, jobs-housing balance, politics, etc.) which can impact RHNA and fairness issues, particularly among urban, rural, job-center communities.

- COGs have sole authority in deciding how to distribute RHNA income category shares to each local government.
- HCD, for 1<sup>st</sup> time starting 2011, made small adjustments decreasing 5<sup>th</sup> cycle RHNA due to sustained housing bust starting 2005 that resulted in unusual housing conditions (abundance of local sites not developed over prior period for carry-over to current cycle and high unit vacancy) reflecting current change in housing demand (due to factors such as economy, defaults/foreclosures, household doubling up, and overcrowding).
- 5<sup>th</sup> cycle, HCD provided transparency in calculating RHNA by different age groups that generate different household formation rates.
  - 65+ age group typically generates highest housing need because of more life changes such as change in income, marital status, health issues, etc. that drive changes in housing type (1-story, smaller unit, fewer bedrooms, assisted living, etc.)
  - HCD interaction with COGs/MPOs after receipt of RHNA varies. Some COGs/member jurisdictions prefer autonomy and HCD guidance. Other COGs MPOs (typically smaller) and some member jurisdictions prefer some HCD guidance and sometimes seek HCD intervention to reduce RHNA (statute precludes HCD from changing local government RHNA. HCD authority is limited to only ensuring “total” RHNA is allocated.

*HCD further presented how the RHNA determination is then broken down into very low, low, moderate, and above moderate-income categories.*

## **Issue #1 – RHNA/RTP Schedule Alignment**

HCD presented the staff report outlining the issues related to RTP timing issues involving RTPAs electing 4-year RTP update (in place of 5-year update) for local governments to change their housing element planning period from five to eight years and schedule conflicts involving RHNA, housing element, and RTP start and end dates.

(A) RTPA (in air quality attainment region) after electing 4-year RTP is not prevented from updating RTP before 4-year due date or reverting back to 5-year RTP schedule.

- Issues with 4-Year RTP and 8-Year Housing Element update schedules can arise if RTPAs choose to update their RTP earlier or later than four years. Issues can disrupt RTP and HE coordination and schedules resulting in gaps in planning periods and RHNA and additional cost to local governments to update housing element due to different schedule.
- Issue was raised about delinking the HE cycle from the RTP cycle; doing so would defeat the purpose of SB 375 which is to link housing with transportation (and SCS).
- HCD commented that if attainment RTPAs (which are small and few) choose to update the RTP earlier or later than four years, it should not change the current housing element period or require revision to the element until the next cycle

based on RTP update nearest to end date of current housing element cycle to minimize RHNA/time gaps among cycles.

- Group expressed desire for more understanding of this issue and information and recommendations from attainment RTPAs about unintended consequences as issues have not arisen.

#### Public Comment

- Santa Barbara COG – no need for change – works well for them – RTP and RHNA should be linked

(B) Schedule conflicts involving RHNA, housing element, and RTP start and end dates  
“memo” staff report: RHNA/RTP schedule alignment.

- HCD, for 5<sup>th</sup> cycle based on requests from all large COGs/MPOs, provided RHNA determination 6 to 12 months earlier than the 24 months specified in statute to accommodate COG/MPO processes to coordinate RHNA/Housing Element with RTP/SCS.
- Housing advocates desire solutions that do not result in RHNA/planning period gaps.
- Issue was raised whether the RHNA projection period and Housing Element planning period should have the same timing anchor.
- Some expressed opinions that the gap due to a moving RTP adoption is minimal and not a significant concern given process, demographics, etc., and housing is not precise to cause concern.
- An approach was brought up to use a time/prorating formula that makes up for the gaps and allows for the planning period and projection period to generally cover the same time period.
  - Example. ABAG began developing methodology before receiving RHNA from HCD based on high RHNA estimate to accommodate official RHNA that was a lower amount and didn't result in contentiousness.
  - Provision/prorating RHNA due to changes in RTP adoption dates should not have a huge effect.
  - Some indicated support for prorating. More people will do things on time with bonuses and discounts so prorating is good. Keep current process with prorating.
  - Proration might be an issue if it could cause rezoning more sites in the planning period.
- Some commenters felt that the planning period should stay the same for consistency as having different planning period dates causes many difficulties including for planners – scheduling, budgeting, etc.

#### Public comment

- Alternative idea: Create a longer RHNA so the potential gap can be covered
- MPOs need HCD's determination of RHNA much earlier before RTP.

## Issue #2 – RHNA Determination/Allocation

HCD presented the staff report on RHNA determination different adjustments made during current 5<sup>th</sup> cycle for special factors (e.g. foreclosures and vacancies) and to further address and consider (statutory changes) existing housing need and inclusion/exclusion of military/student/tribal housing need on sites outside of jurisdiction boundaries that are controlled by entities exempt from RHNA and housing element law.

### Comments

- HCD was asked why local governments are not allowed to count land sites controlled by entities (military, public college/university, tribal nations) exempt from Housing Law to meet a portion of RHNA and decrease need to identify sites only within jurisdiction's boundary?
  - Response was that exempt entity sites for potential units are not accepted because housing law applies only to local governments and actions/sites that local governments control (via zoning and decision-making). Also, exempt entities focus on their special populations and restrict housing for military, students, or tribe members.
- Some opined that in terms of inclusion of sites in the inventory for military, student, or tribal housing, HCD should use discretion and judge on a case by case basis, but there needs to be effective public participation or jurisdictions could end up with an unmet housing need, if too much RHNA were to be planned on exempt land and an exempt entity's plans change.
- Non-exempt tribal lands may be a small issue regionally, but large one locally (for example the checkerboard pattern of tribal lands in Palm Springs).
- It is unclear within the continuum (at regional level, housing planning level, or construction level) where issues such as overcrowding, homelessness, etc. should be addressed and how accounted for in RHNA projection.
- HE law tries to account for existing unmet need based on RHNA which reflects the difference between total housing unit need (existing and future households) versus current total number of *occupied* housing units (difference is additional, new unit need).
- An opinion was expressed that HCD has discretion to use existing framework to better account for existing needs – a suggestion was made to encourage the identification of sites or rezoning efforts beyond RHNA to account for unmet need, even though it could be politically difficult/infeasible to do so.
- A COG representative indicated there would not be support for additional requirement that requires more zoning – it is a local implementation issue – more of a construction and affordability issue.
- Larger issue is that adequate funding is not available to address housing need.
- An advocate opined that problems are more regional – some jurisdictions are not adequately planning or performing; requirements should address jurisdictions that are under-performing. Locals don't see overcrowding as needing a specific program response so HCD should require housing element to include a program addressing overcrowding. Also, affirmative fair housing can be an issue – this is where jurisdictions and HCD should use discretion.

## Public Comments

- A COG representative stated that for housing and transportation planning purposes, military, students, and tribal populations should be considered. UC students should be included since UC provides many jobs in the area and inclusion is consistent with the COG's sustainable community strategy.
- Some commenters expressed need for communication and education for deeper understanding of tribal needs throughout the state. Tribes need housing; however it is very common that tribes lack resources and/or suitable land for housing developments.
- Local governments should not include exempt entity land in which local governments have no planning authority to meet housing need.

### **Issue # 3 – Follow-up/Re-visit of RHNA Population Threshold (3% criterion applied only to Total Population or Population Change (or both per current statute))**

The advisory group briefly revisited this issue from May 12 after members received feedback on COG preference to apply 3% threshold to just total population and not also to the change in population. No other comments or concerns were expressed. A general consensus was reached for the statute to be amended to eliminate the reference to population "change" to only apply the 3% criterion to "total" population.

## **Next Steps**

- Follow-up to Issues 1-3 (per above): HCD will propose statutory language for consideration at the next meeting.
- Member Information: Comments (included below) received on July 9, 2015 by advisory group member Paul Campos (BIA) who was not able to attend the June 25 meeting.

*I regret I was unable to attend the June 25 Advisory Group meeting or participate by phone. The topics covered in the staff report Factors for RHNA Determination and in the meeting agenda are critically important, and I respectfully submit the following comments and observations:*

*Regarding existing unmet need: BIA fully agrees with the staff report's observation that "RHNA does not consider existing housing need factors...reflecting adverse housing conditions [including overcrowding and overpayment]...that can impact (under calculate) RHNA projections. In other words, RHNA reflects 'minimum' housing units needed to accommodate 'growth'...which may be insufficient to remedy adverse housing conditions." (p.1). This is entirely consistent with BIA's experience over many RHNA planning cycles in the Bay Area. For region's like the Bay Area that chronically under produce new housing of all types and at all affordability levels, what effectively happens each planning cycle is that the housing need slate is wiped clean even though cumulative under supply of housing continues to lead to housing price and rent increases that demonstrate severe housing shortages relative to population and job*

*growth. We believe the determination of each region's housing need should include new supply sufficient to actually "move the needle" with respect to the price of housing in a region.*

*Regarding Special RHNA Adjustments for the 5th Cycle:* As the staff report notes, the 5th Cycle RHNA determinations were adjusted downward based on foreclosures and other factors reflecting the Great Recession. However, as also noted, the result has been that regions such as the Bay Area now have the lowest RHNA for the 2015-2022 cycle in recent history, while the economy and housing crisis have resulted in the greatest need for new supply. For example, the region's current RHNA total for 2014-2022 is only 187,990 units. This compares to 214,500 for the 2007-2014 planning period and 230,743 units for the 1999-2006 planning period. Clearly, something is fundamentally wrong with a system that results in an ever shrinking Bay Area RHNA at a time when the region is experiencing the greatest housing supply shortage and price and rent increases in history. This strongly suggests that the 8-year foundation of RHNA determinations is anachronistic and should be reconsidered. The historical evidence suggests that 8-year RHNA "redos" not only do not adequately capture existing housing conditions (see above), but also preclude the housing market from responding to market cycles in a timely and effective manner. We believe HCD should consider generating, at a minimum, 20-year housing needs for regions and individual jurisdictions. The Oregon planning system, which is seen as a model of good planning by many, is based on ensuring that local governments maintain a "rolling" supply of land adequately planned and zoned to accommodate a 20-year housing need. While RHNA determinations can be made every 8 years, the housing need figure should be based on a longer time frame. This change would substantially eliminate the risk of significantly understating a region's housing need based on short term cyclical factors, and would accurately capture what are clear and more stable long term trends.

*Regarding "above market" need:* We believe that RHNA appears consistently, over many planning cycles, to understate the purported "need" for overall housing supply, and in particular new market rate housing. This is confirmed by the LAO report's finding that in areas like the Bay Area, we should be building twice as much new housing in order to stop the region's price and rental gap with the rest of the country from continuing to accelerate, and by the fact that over many planning periods the region has met or exceeded what RHNA has represented to be the so-called "above market/market housing need." The RHNA numbers over the last decades would suggest that the Bay Area has consistently produced enough (and often "too much") "market rate" housing. The falsity of this is apparent simply by looking at the huge imbalance in the supply and demand for new market rate housing in the Bay Area. The LAO report clearly demonstrates this point by demonstrating that significantly increasing the overall supply of new market rate housing in the Bay Area would stabilize price and rent increases such that the Bay Area would no longer experience continued acceleration of price and rent increases that are far higher than the rest of the country. Although prices and rents in the Bay Area will never revert back to the national average, the LAO report shows that significant supply increases over time can arrest the continued increase in the affordability gap between the Bay Area (and California) and the rest of the

country. We believe HCD should explore the methodology used by LAO in arriving at its conclusions. For example, LAO based its market rate housing supply estimates on the number of new units needed to stabilize price and rent increases.

Process Transparency: Another significant concern we have with the current RHNA is the lack of transparency in the process for determining each region's RHNA. From the outside, it appears to be a closed negotiation between the state (DOF/HCD) and each COG (ABAG). But the housing need should not be a negotiation, with the COG battling every planning period to lower the RHNA, as we have witnessed each cycle in the Bay Area. This disturbing reality is captured clearly in the ABAG report "Regional Housing Needs Determination for the San Francisco Bay Area: 2001-2006 Housing Element Cycle: **"During the early stages of the RHND process, ABAG and HCD worked collaboratively to determine the Bay Area's share of the statewide housing needs goals. HCD's initial determination was 310,761 housing units for the 1999-2006 RHND time frame. ABAG compared this initial figure with its bi-annual forecasts for growth in the region, and determined that the goal figure was significantly larger than the expected growth in households for the region. ABAG provided HCD with its estimates of population and households, which ultimately resulted in a reduction of the initial determination to 230,743 units."** (p.5). This represented a massive loss of regional housing "need" based on ABAG's "projections" of what it forecasted would actually be built. The problem is that, as ABAG's description makes clear, ABAG treats its projections as forecasts of what it believes its member local governments will be willing to approve in terms of new housing units. ABAG's housing projections have been based on things like the Bay Area's historical (lack of) housing production and continued population displacement to neighboring regions such as the Central Valley. ABAG treats the RHND as a "goal" or "forecast" when in fact it is supposed to represent housing need, and these "negotiations" with HCD appear invariably to compromise the integrity of a need-based RHNA. We believe that there should be a formal and open public process for determining RHNA.

COG RHNA "Self Determination": We strongly oppose this concept and view it as a nonstarter. Our experience is that the COGs view their role in this process as being to advocate on behalf of what a vocal contingent of their members want: less housing allocated to their region and individual jurisdictions.